

Applicant: Raymond & Tracy Garcia

Agent: Arch+Plan Land Use Consultants

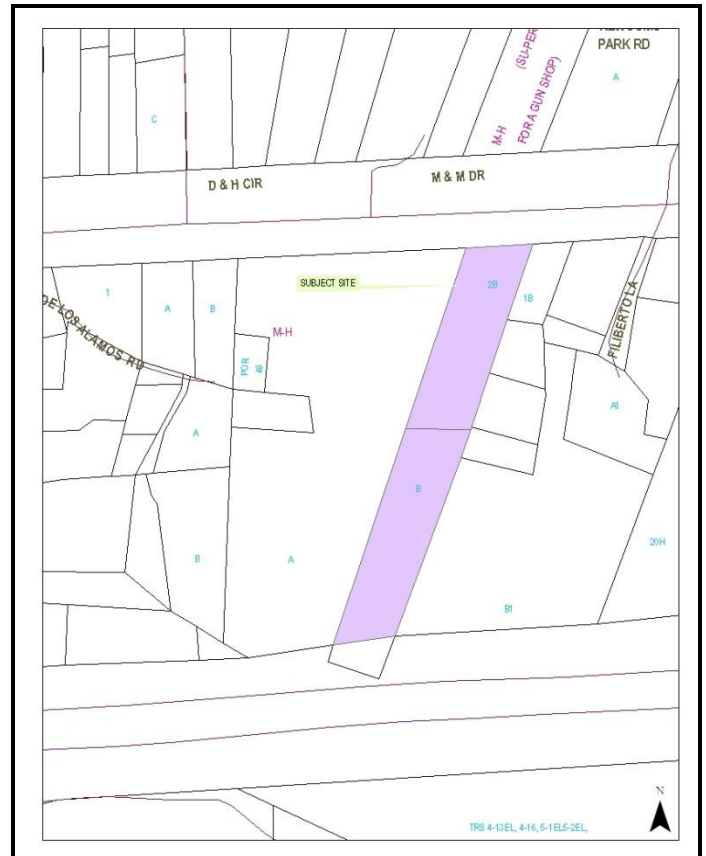
Location: 80 & 84 NM 333

Property Size: Approximately 2.77 acres

Existing Zone: M-H

Proposed Request: Special Use Permit for Two Mobile Homes & a Contractor's Yard

Recommendation: Deferral



Summary: The applicant is requesting a Special Use Permit for a Contractor's Yard and two mobile homes. The owners live on site and wish to continue the operation of a well drilling business under a previous Special Use Permit which has expired in January 2006.

Staff Planner: Mari Simbaña, Program Planner

Attachments:

1. Application
2. Land Use and Zoning Map
3. Site Plan (Commissioners Only)

Bernalillo County Departments and other interested agencies reviewed this application from Dec. 15, 2009 to Jan. 11, 2010.
Agency comments were used verbatim in preparation of this report, and begin on page 13.

AGENDA ITEM NO.: 10
County Planning Commission
February 3, 2010

CSU-90026 Arch & Plan Land Use Consultants, agent for Raymond & Tracy Garcia, requests approval of Special Use Permit for Specific Uses for Two Mobile Homes and a Contractor's Yard on Tract 2B, Lands of Varan & Gurule, and Tract B, Lands of Abe Galanter, located at 80 & 84 Highway 66 East, zoned M-H, and containing approximately 2.77 acres. (L-24)

AREA CHARACTERISTICS AND ZONING HISTORY

Surrounding Zoning & Land Uses

| Site | Zoning | Land Use |
|--------------|---------------|-----------------|
| | M-H | Residential |
| North | Right-of-Way | Highway 66 East |
| South | Right-of-Way | I-25 |
| East | M-H | Residential |
| West | M-H | Residential |

BACKGROUND:

The Request

The purpose of the request is to reinstate a well drilling business which was conducted under a special use permit granted in January 2001 for a five year period. The subject site includes two lots that equal approximately 2.77 acres. It is located between Interstate 40 and US Highway 66 East. The site accesses US Highway 66 East via a private easement.

The business was operated by extended family throughout most of its 20 year history. Originally functioning as a Salvage Yard through a one-year special use permit (CSU-71-63), the site included a mobile home for a caretaker's quarters. In April of 1988, this use was changed to a contractor's yard with a mobile home for a caretaker's quarters (ZA-88-77). On October, 19 1995 the owners filed an application for a Special Use Permit for a Contractor's Yard and Shop (CSU-95-34). At the December 1995 hearing, the County Planning Commissioners deferred the case indefinitely to allow the applicant time to submit a revised site plan. The applicant subsequently submitted a new site plan in February 1996. However, the case was not reinstated at that time, nor heard. File notes reveal that the owner may have believed that this was an indication to continue operation. Nevertheless, in February 1999, a County Zoning Inspector issued a violation on the site for operation of a commercial business as well as open storage of commercial vehicles, inoperative vehicles, and hazardous waste. This prompted the owner to request a special use permit (CSU-99-21). Thus CSU-95-34/CSU-99-21 was finally heard and denied by the Extraterritorial Land Use Commission in August 2000. The owners appealed (in that same month) and the Extraterritorial Land Use Authority voted to grant the appeal thereby overturning the Commission's denial. Over time, attempts were made to comply with remaining conditions. Unfortunately, for the family, the special use permit, CSU-99-21, expired before all the conditions were met. Nevertheless, the current applicants have taken over the business and have conducted major cleanup efforts and are committed to improve the business under their own management. They are ready to comply with the conditions necessary in order to continue the well drilling operation under a special use permit.

Prior to submittal of the application, Bernalillo County planning and zoning staff met with the applicants on site to consider the unique topography, equipment and materials that are used directly for the business and the residential component of the site. There is some existing fencing and established vegetation around much of the perimeter of the site. To the south the property tapers down into an arroyo which has been left untouched and there is not plan to impact this area at all.

The application and site plan indicate how the applicants intend to organize the truck parking and various equipment storage areas throughout the site. Most of the use related to the business is located on Lot Tract 2B (northern lot). There is a 1,891 square foot office building, including paved parking, closest to the entrance of the site. However, neither client meetings nor actual work is conducted on the site and there are no plans to perform such functions through the requested special use permit. There is a mobile home on either lot, of approximately 1,120 square feet in size each.

The site plan shows two paved parking spaces and at least twenty additional parking spaces related to the business. There is no information indicating the need for employee parking. There appear to be six general parking spaces adjacent to the mobile home on the southern lot, however, it is unclear whether these will serve the home or business.

Request Justification

The applicant believes that the request is more advantageous to the community because the applicants will be able to continue providing a needed service.

The current applicants are the owners of the business and also reside on the property in a mobile home. They would like to continue the well-drilling business and serve the community. As the application states, "Neighborhood support reflects that the use as it has existed prior has not been harmful and with a more organized site plan with buffering and landscaping, they will continue to be good neighbors."

Surrounding Land Use and Zoning

Interstate 40 is to the north and US Highway 66 East (NM 333) to the south of the subject site. It is predominantly surrounded by M-H zoned properties. The site is not in a commercial corridor as designated by the East Mountain Area Plan. There is one lot zoned M-H with a Special Use Permit for a Contractor's Yard and a Telecommunications Facility located approximately 700feet to the east (CSU-20001). Across the street is a property zoned M-H with a Special Use Permit for a Gun Shop (CSU-70-33). To the southeast, less than 300ft, is a C-1 zoned property that is vacant (CZ-98-38).

APPLICABLE PLANS AND POLICIES:

Albuquerque/Bernalillo County Comprehensive Plan

Policy 3 The stated Goal of the Rural Area is "to maintain the separate identity of Rural Areas as alternatives to urbanization by guiding development compatible with their open character, natural resources, and traditional settlement patterns." The following includes applicable policies:

Policy 3.a. of the Rural Area Goal states that "higher density development may occur at appropriate locations. Rural Area density patterns shall be more specifically defined through lower rank planning. Each higher density area is to be controlled by site development plan and is to be located well away from other such higher density areas."

Policy 3.b states that "Development in Rural Areas shall be compatible with natural resource capacities, including water availability and capacity, community and regional goals and shall include trail corridors where appropriate."

Policy 3.f states that “Development shall be carefully controlled in the East Mountain Area to prevent environmental deterioration, and to be compatible with the resource base and natural recreational and scenic assets.”

Policy 3.g states that “the following shall guide industrial and commercial development in the Rural Areas.”

- Small-scale, local industries, which employ few people and may sell products on the same premises, are the most desirable industrial use.
- Neighborhood and/or community-scale rather than regional scale commercial centers are appropriate for rural areas. Strip commercial development should be discouraged and, instead, commercial development should be clustered at major intersections and within designated mountain and valley villages.”

Policy 6 Economic Development goal is, “to achieve steady and diversified economic development balanced with other important social, cultural, and environmental goals.”

Policy 6.a states that, “New Employment opportunities which will accommodate a wide range of occupational skills and salary levels shall be encouraged and new jobs located convenient to the areas of most need.”

Policy 6.b states that, “Development of local business enterprises as well as the recruitment of the outside firms shall be emphasized.”

Policy 6.g states that, “Concentrations of employment and Activity Centers should be promoted in an effort to balance jobs with housing and population and reduce the need to travel.”

East Mountain Area Plan Goals and Objectives

General Land Use – 1

Goal

- Protect the property rights of property owners while ensuring the health, safety, and welfare of all inhabitants.

Visual Resources – 4

Goal

- Maintain and improve the existing visual quality of the East Mountain Area.

Objective

- Recognize the natural and visual environment, particularly features unique to the East Mountain Area as a significant determination in development decisions.

Economic And Commercial Development – 9

Goal

- Achieve steady and diversified economic development balanced with other important social, cultural, and environmental goals.

Objectives

- Promote sound economic development that includes small-scale, local businesses.
- Provide new employment opportunities for area residents which will accommodate a wide range of occupational skills and salary levels.
- Promote tourism with careful attention to the potential for impacts of tourism on the East Mountain Area residents, rural character, and environment.

Policies

- 9.1 Commercial development shall occur in commercial corridors and nodes identified through an economic development study, sector plan, or master plan approved by Bernalillo County.
- 9.2 Prohibit new Special Use Permits for commercial and manufacturing that would be equivalent to M-2 zoning.
- 9.3 New commercial development shall be of an appropriate scale to meet the needs of the area residents and not degrade the environment.
- 9.4 Encourage small-scale business to develop with the potential for providing local employment.

Possible Techniques

- Establish commercial corridors and nodes to allow for the location of neighborhood-scale businesses that generate jobs and provide needed goods and services to EM residents while maintaining rural character.
- Focus light industrial and commercial development in selected areas with adequate utilities and transportation access and set apart from any existing or future residential neighborhoods or other incompatible land uses.
- Reserved portions of the community strictly for commercial activity to accommodate a variety of wholesale, retail, service and offices uses where the highest traffic volumes and greatest utility demands can be served and more extensive signage and outdoor display of materials will be expected and permitted.

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Rural Character

The most important issue identified by respondents on the 2003 questionnaire was the retention of rural character, confirmed by responses to other Survey questions. The vision of

the East Mountain Area residents is to maintain this rural character. This is the focus of discussion in the Community Vision section which can be found in Appendix G. Rural character is defined by natural landscape, open spaces, undisturbed ecosystems, quietness, views of the landscape and the sky, limited traffic, large lots, privacy, and small-scale local businesses.

Tijeras Canyon/Carnuel Plan

IV. Plan policy

I-40 Residential Uses

1.1 Residential development shall conform to existing zoning.

1.2 Emphasize development that consists primarily of ranches, farms, and large-lot (minimum net lot size of two acres) single-family residential.

2.0 Commercial Uses

2.1 Maintain existing commercial and industrial uses along Old Route 66 that are in compliance with current regulations.

2.2 Cancel Special Use Permits that are in violation or no longer in use.

2.3 Establish Old Route 66 as a neighborhood commercial corridor that may be based on C-N zoning and uphold the Scenic Byways Designation.

2.4 Encourage small businesses within the area that maintain rural character and preserve visual aspects of Old Route 66.

Implementation:

Future special use permits and development applications should be considered for approval or denial based on the type and compatibility of commercial activities to existing neighborhoods.

Bernalillo County Zoning Ordinance

Resolution 116-86 defines criteria for evaluating a Zone Map changes and Special Use Permit applications.

The following policies for deciding zone map changes and Special Use Permit applications pursuant to the adopted Bernalillo County Zoning Ordinance.

A. A proposed land use change must be found to be consistent with the health, safety and general welfare of the residents of the County.

- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other Master Plans and amendments thereto including privately developed area plans which have been adopted by the Board of County Commissioners.
- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
 - 1. An error in the original zone map.
 - 2. Changed neighborhood conditions, which justifies a change in land use or
 - 3. That a different use category is more advantageous to the community as articulated in the Comprehensive Plan or other land use plans as adopted by the Board of County Commissioners.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- H. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
 - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
 - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- I. A zone change request, which would give a zone different from the surrounding zoning to a strip of land along a street, is generally called a "strip zoning." Such a change of zone may be approved only when:
 - 1. The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or

2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

Section 18. Special Use Permit Regulations.

- A. By Special Use Permit after receipt of a recommendation from the Bernalillo County Planning Commission, the Board of County Commissioners may authorize the location of uses in any zone in which they are not permitted by other sections of this ordinance; the Bernalillo County Commission may likewise authorize the increase in height of buildings beyond the limits set by previous sections of this ordinance. With such permits, the Bernalillo County Commission may impose such conditions and limitations as it deems necessary:
 1. To ensure that the degree of compatibility of property uses which this section is intended to promote and preserve shall be maintained with respect to the special use on the particular site and consideration of existing and potential uses of property within the zone and the general area in which the use is proposed to be located;
 2. To ensure that the proper performance standards and conditions are, whenever necessary, imposed upon uses which are, or which reasonably may be expected to become, obnoxious, dangerous, offensive or injurious to the health, safety, or welfare of the public, or a portion thereof, by reason of the emission of noise, smoke, dust, fumes, vibration, odor, or other harmful or annoying substances;
 3. To preserve the utility, integrity and character of the zone in which the use will be located, without adversely affecting adjacent zones; and
 4. To ensure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.

B.32.a

(Office/Commercial) In certain situations based on unique conditions the owner may apply for any of the specific uses set forth in Sections 12, 13, 14, or 15 of this Ordinance. The special use for a specific use (office/commercial) may be granted if the owner/applicant proves by clear and convincing evidence that: (1) unique conditions exist that justify the request and (2) there is substantial support from neighborhood residents (or owners of property) within 200 feet of the site for the proposed special use.

Section 19: Landscaping and Buffer Landscaping Regulations:

Where a nonresidential zone which is hereafter developed for a business purpose abuts a residentially zoned property, special buffer landscaping is required to minimize noise, lighting and sight impact of the nonresidential activities in the residential area.

- I- Landscaping and buffer landscaping will be required in all zones for office, commercial, industrial, and multifamily residential uses; R-1, A-1, A-2 and M-H residential uses are exempt.
 - 1. Sites of one acre or less:
 - a. There shall be a landscaped setback along all streets of no less than ten feet.
 - b. There shall be a landscaped buffer of six feet between single-family residential uses and office, commercial, industrial, and multifamily residential uses.
 - c. Fifteen percent of all paved areas shall be landscaped. The landscaped setback shall contribute toward this requirement.
 - 2. Sites one acre and up to five acres. There shall be a landscaped setback along all streets of no less than 15 feet. All other requirements same as 1.b. and 1.c. above.
- I- In a nonresidential zone, a solid wall or a solid fence at least six feet high shall be erected on sides abutting a single family residential use, except for those sides abutting public right-of-way.
- E. Landscaping which dies shall be replaced by the property owner who is obligated to provide it as expeditiously as possible, but in no case longer than 30 days after notification. If the 30-day period falls at a time of the year when planting of landscaping is inadvisable, a waiver may be granted by the Zoning Administrator to allow planting at the earliest possible time. The waiver and date of the planting deadline shall be recorded by the County Zoning Office.
- G. Parking spaces within a parking lot shall be no more than 50 feet from a tree.
- H. Nonconforming Landscaping. Premises which, when they were developed, were not required to be developed in accordance with the Landscaping and Buffer Landscaping Regulations Section of this ordinance, shall be made to conform with this regulation within two years due to the amendment of the map or text of this ordinance.

ANALYSIS:

Surrounding Land Use and Zoning

The site is located between Interstate 40 to the north and US Highway 66 East (NM 333) to the south. Occupied M-H zoned properties predominate in this area. The site is not in a commercial corridor as designated by the East Mountain Area Plan. There is one lot zoned M-H with a Special Use Permit for a Contractor's Yard and a Telecommunications Facility located approximately 700 feet to the east (CSU-20001). Across the street is a property zoned M-H with a Special Use Permit for a Gun Shop (CSU-70-33). To the southeast, less than 300 feet away, is a vacant C-1 zoned property (CZ-98-38).

Plans

The subject site is not in a commercial corridor as designated in the *East Mountain Area Plan*. The Tijeras/Carnuel Plan supports maintaining existing businesses if they are in compliance with current regulations (Policy 2.1).

Zoning Ordinance

In the Zoning Ordinance, a Contractor's Yard is defined as, "A premises where equipment, materials and supplies are stored, kept, and/or maintained in connection with a contracting operation." As a permissive use, trucks and trailers parked outdoor for storage falls under the C-2 zoning category.

Agency Comments

There were no adverse comments to this request.

An approved Grading & Drainage Plan (PWDN 99-162) is on file with BCPWD for this property. Public Works staff comments that a field visit conducted on September 30, 2009 indicated the property is in compliance. Staff is requiring a Traffic Scoping Report prior to approval. Fire staff had several comments including that the required width of an apparatus access road cannot be obstructed at any time, that Fire lanes and the turn around must meet the requirements of the Bernalillo County Fire Marshal, that storage of hazardous materials will require a permit, and that commercial vehicles shall be set back at least 10 feet from the property line. NMDOT staff comments that details of the driveway access and any required improvements, should be coordinated with NMDOT.

The following may be of interest to the property owners:

The 2030 Metropolitan Transportation Plan designates NM 333 as an existing bike route. The East Mountain Trails and Bikeways Master Plan designates NM 333 for a proposed paved multi-use trail. MPO Project 333.0 "NM 333 East Mountains Area Pavement Preservation" is a NMDOT (CRDC) pavement preservation project including pavement markings, signage, and other appurtenances as necessary from Tramway Blvd to Sedillo.

I-40 has been identified as an ITS corridor in the AMPA Regional ITS Architecture and ITS Corridor Map.

Analysis Summary

| Zoning | |
|-------------------------|---|
| Resolution 116-86 | This request use is more advantageous to the community because it provides a needed service since the area is rural and water can be accessed via wells. |
| Plans | |
| Comprehensive Plan | This request encourages a small-scale, locally-owned and operated industry that complements residential areas and reduces the need to travel as articulated (Policies 3.g, 6.a, 6.b & 6.g). |
| East Mountain Area Plan | This site is not within a designated Commercial Corridor. |

| | |
|-----------------------------|--|
| Tijeras Canyon/Carnuel Plan | The request must comply with current regulations in order to continue operating as an existing commercial use on Old Route 66 (2.1) |
| Other Requirements | |
| Environmental Health | All wells and septic systems must be permitted |
| Public Works | Traffic Scoping Report is required prior to approval |
| Fire Department | The required width of a apparatus access road shall not be obstructed in any manner, including parking of vehicles during construction and/or occupancy. The turn around must meet the requirements of the Bernalillo County Fire Marshal. Fire lanes shall be designed, approved, and inspected prior to occupancy. A permit from the Bernalillo County Fire Marshal's office is required for the storage of hazardous materials prior to occupancy. A minimum 10-ft set back required between property line and parking of commercial vehicles |
| NMDOT | Driveway details, as well as any required improvements, should be coordinated with NMDOT. These must adhere to NMDOT's State Access Management Manual. |

Conclusion

The site is not in a commercial corridor. However it has been in operation for about 20 years. The specific use is for the parking of work vehicles and equipment related to the business as well as mobile homes which serve as the residence for the business owners. During the last few years, the current business owners, who are also the property owners, have been working with county staff to clean and organize that site. The application states that they are ready to meet conditions in order to have a special use permit. A staff site visit revealed that cleanup efforts are still underway. Staff believes that the applicants should be given additional time to better organize the site, given the history of violations on this site. Additionally, it is important that applicants meet with Fire Department staff to determine necessary widths of turnaround and fire lanes and appropriate setbacks for commercial vehicle parking from property lines. Therefore, staff recommends deferral of the request.

RECOMMENDATION:

Staff recommends Deferral of the request.

Mari Simbaña
 Program Planner

BERNALILLO COUNTY DEPARTMENT COMMENTS

Zoning Administrator:

No comment received

Environmental Health:

1/6/2010

Site plan shows two wells and three WW systems on tracts 1B and 2B.

Expired well permit for well drilled in 2003.

All wells and septic systems serving the facility require permits.

Zoning Department Manager:

12/28/09

Must comply with below listed comments.

As of June 23/09 Charles Ramirez inspected property for operating a contractor's yard w/o permit approval along without business permit and storing of commercial vehicles on property.

Note: all violations to be corrected if Special Use not granted.

Building Department Manager:

12/29/09

Corrections listed below must be corrected for approval:

No adverse comments.

Public Works:

DRAN: 12/28/09

An approved Grading & Drainage Plan (PWDN 99-162) is on file with BCPWD for this property. A field visit conducted on September 30, 2009 indicated the property is in compliance with the G&D.

DRE: 12/17/09

NM 333 is NMDOT's Road.

Site Plan appears to show turnaround for fire and emergency services. Traffic Scoping Report is required prior to approval. Please Contact Richard Meadows at 848-1508.

Fire Department

1/11/2010

Required access: Fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction.

The required width of a apparatus access road shall not be obstructed in any manner, including parking of vehicles during construction and/or occupancy.

The turn around must meet the requirements of the Bernalillo County Fire Marshal.

Fire lanes shall be designed, approved, and inspected prior to occupancy.

Occupancy pending compliance with the hazardous materials emergency response plan (HMER Plan) A permit from the Bernalillo County Fire Marshal's office is required for the storage of hazardous materials.

Approved numbers or addresses shall be placed on all new and existing building in such a position as to be plainly visible and legible from the street or road fronting the property and shall contrast with their background. Numerics shall be a minimum of 4 inches in height. The parking of commerical vehicles shall be seperated from the property line at a min. of 10 feet.

Parks & Recreation:

12/16/09

1. The 2030 Metropolitan Transportation Plan designates NM 333 as an existing bike route. The East Mountain Trails and Bikeways Master Plan designates NM 333 for a proposed paved multi-use trail.

Sheriff's:

No comment received

COMMENTS FROM OTHER AGENCIES

MRGCOG:

1/7/09

MPO Project 333.0 "NM 333 East Mountains Area Pavement Preservation" is a NMDOT (CRDC) pavement preservation project including pavement markings, signage, and other appurtenances as necessary from Tramway Blvd to Sedillo. Please contact NMDOT for additional information at (505) 841-9176.

I-40 has been identified as an ITS corridor in the AMPA Regional ITS Architecture and ITS Corridor Map. Please contact NMDOT Intelligent Transportation Systems Bureau at (505) 222-6550 for implementation timelines and details.

For informational purposes, the functional classification of NM333 is that of Urban Collector and the functional classification of I-40 is that of Urban Interstate.

AMAFCA:

12/28/09

No comment.

City Planning Department:

12/30/09

No comment.

Transportation Division

No comment received

Municipal Development:

No comment received

City Public Works:

Transp. Planning: No comment received

Transp. Development: 12/22/09
No adverse comments. (Salgado)

City Transit:
1/11/09
No comment

ABCWUA Utility Development Section
No comment received

City Environmental Health:
No comment received

City Open Space:
12/21/09
Open Space has no adverse comments

NM Department of Transportation
12/28/09

Any development adjacent to NMDOT facilities (in this case NM 333) will have to adhere to NMDOT's State Access Management Manual as it is related to driveway access. Driveway details are not contained within the provided site plan. These details, as well as any required improvements, should be coordinated with NMDOT.

Albuquerque Public School:
1/4/2010
This will have no adverse impacts to the APS district.

Public Service Company of New Mexico
No comment received

Village of Tijeras:
No comment received

NEIGHBORHOOD ASSOCIATIONS:

East Mountains District 5 Coalition
East Gateway Coalition of Associations